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Letter dated 29 September 2008 from the Permanent Representative of Greece to the United Nations addressed to the President of the General Assembly

I have the honour to transmit herewith the text of the written statement of the delegation of Greece in exercise of the right of reply to the remarks made by Branko Crvenkovski, President of the former Yugoslav Republic of Macedonia, on 25 September 2008, at the sixty-third session of the General Assembly (see annex).

It would be highly appreciated if you could have the present letter and its annex circulated as a document of the General Assembly, under agenda item 8.

(*Signed*) John **Mourikis**
Ambassador
Permanent Representative

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Annex to the letter dated 29 September 2008 from the Permanent Representative of Greece to the United Nations addressed to the President of the General Assembly

Statement by Ambassador John Mourikis, Permanent Representative of Greece to the United Nations, in exercise of the right of reply to the statement made by Mr. Branko Crvenkovski, President of the former Yugoslav Republic of Macedonia

I would like to put the following statement on record in response to the statement made today by the President of the former Yugoslav Republic of Macedonia, Mr. Branko Crvenkovski, during the general debate of the sixty-third session of the United Nations General Assembly.

Greece has, throughout the years, fully complied with the letter and spirit of Security Council resolutions 817 (1993) and 845 (1993) under which the former Yugoslav Republic of Macedonia was admitted to membership in the United Nations. Greece proceeded to the bilateral negotiations pursuant to resolution 845 (1993) and the subsequent interim accord of 1995 concluded among the two parties, with goodwill and a spirit of compromise, wishing to assist in reaching an acceptable solution over the name issue under the auspices of the Secretary-General and his Special Envoy.

Despite the above efforts, however, the Government of the former Yugoslav Republic of Macedonia has shown during these years an utter disregard for the above-mentioned Security Council resolutions and an intransigent and uncompromising position during bilateral negotiations under the auspices of the United Nations, thus preventing any progress therefrom or an amicable settlement of the difference between the two countries.

Even within the United Nations, the Government of the former Yugoslav Republic of Macedonia has never used the name by which the two principal organs of the Organization decided that it should be provisionally referred to for all purposes within the United Nations, but, on the contrary, has always used the very name over which the Security Council has acknowledged the existence of a difference between the two countries.

Greece remains firmly committed to the bilateral negotiations under the auspices of the United Nations and to the need for a prompt and acceptable solution to the name issue that would take into consideration the legitimate interests and sensitivities of both countries and would solve a problem which is closely related to regional stability.

In this respect we would like to emphasize that any fair and acceptable solution to the name issue can only be achieved if no country attempts to assert exclusivity through the use of the name, thus monopolizing the wider geographic region of Macedonia.

Greece firmly believes that there should be no winners or losers in this effort, but rather that it should be understood that a speedy solution to the name issue is in the interest of both countries as well as of regional peace and stability. This is fully in line with Security Council resolution 817 (1993), which clearly stipulates that the name issue "needs to be resolved in the interest of the maintenance of peaceful and good neighbourly relations in the region".

25 September 2008

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Agenda items 117 and 118

Review of the efficiency of the administrative and financial functioning of the United Nations

Programme budget for the biennium 2008-2009

Accountability framework, enterprise risk management and internal control framework, and results-based management framework

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. The Advisory Committee on Administrative and Budgetary Questions has considered the report of the Secretary-General on the accountability framework, enterprise risk management and internal control framework, and results-based management framework (A/62/701 and Corr.1) and the related report of the Secretary-General on resource requirements and organizational changes (A/62/701/Add.1). During its consideration of the matter, the Advisory Committee met with the Under-Secretary-General for Management and other representatives of the Secretary-General who provided additional information and clarification.

2. The first report of the Secretary-General (A/62/701 and Corr.1) was submitted pursuant to General Assembly resolution 61/245. According to the Secretary-General, his report also responded to Assembly resolution 59/272, which requested that annual reports be submitted on measures taken to strengthen accountability in the Secretariat.

3. In that report, the Secretary-General proposed an accountability architecture "aimed at achieving a fully results-oriented Organization that plans for and mitigates risks to success and that holds managers and staff at all levels accountable for the achievement of results" (A/62/701 and Corr.1, summary). The Secretary-General stated that the proposed accountability architecture would build on the existing accountability framework and would include a new dimension for enterprise risk management and internal control, reflecting a fully developed

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results-based management framework, including improved and more frequent monitoring and evaluation. The Secretary-General asserted that the proposed accountability frameworks — together with their linkage to existing structures and mechanisms — would lead to a strengthened, better managed and more accountable Organization. **In the opinion of the Advisory Committee, the report does not explain, in a concrete manner, how these objectives would be realized. Nor are specific timelines or benchmarks consistently provided. Furthermore, the report does not clearly demonstrate the relationships between the various proposals or their linkage to existing structures and mechanisms.**

4. The Advisory Committee has been informed that consultants were involved in the preparation of the reviews that provided the basis for the proposals contained in the above-mentioned report of the Secretary-General (A/62/701 and Corr.1). The related consultants' costs were: (a) $325,180 for the accountability framework review; (b) $1.32 million for the enterprise risk management and internal control framework reviews; and (c) $119,000 for the results-based management review. **The Advisory Committee recalls its observation that familiarity with the United Nations system and its inherent complexities is essential in undertaking studies on accountability and results-based management and that expertise within the United Nations system should be used (see A/61/605, para. 16). The Committee is concerned that expertise available within the United Nations Secretariat was not solicited in the preparation of the report and that there was a striking absence of consultation with the oversight bodies or with other organizations of the United Nations system. Furthermore, the Committee notes that the consultants' findings overlap with those of the report of the Joint Inspection Unit entitled "Results-based management in the United Nations in the context of the reform process" (A/61/805). The Committee believes that closer interaction between the management and oversight bodies would have resulted in a better presentation of the issues under consideration.** In this connection the Committee notes that the Office of Internal Oversight Services (OIOS) was actively engaged in risk assessment and results-based management work in the United Nations, however, it apparently was not involved in the preparation of the report of the Secretary-General. Furthermore, the Committee is of the view that the Secretariat should have used more extensively the analysis undertaken by JIU. **The Committee regrets the lack of recourse to the expertise found in different parts of the United Nations system.**

II. Accountability framework

5. The accountability architecture as envisaged and proposed by the Secretary-General would encompass three key elements of institutional and personal accountability: performance, compliance and integrity. According to the Secretary-General, these three elements reflect the Organization's commitment to achieving results while respecting its regulations, rules and ethical standards. The Secretary-General indicates that, under the proposed accountability architecture, the General Assembly could more readily hold the Secretariat accountable for its activities and results, including the management of financial and human resources, as well as the management of programmatic activities. The Organization would thus focus on results rather than inputs and outputs of efforts and processes while

emphasizing ethical conduct and compliance with regulations and rules (A/62/701 and Corr.1, para. 3).

6. As described in paragraphs 14 to 17 of the report, the three elements of the proposed accountability architecture are as follows:

(a) **The performance element**: the documents that specify what results the Organization expects to be held accountable for by Member States, including legislative mandates, strategic plans, budgets, senior managers' annual compacts, office/section/individual workplans and human resources action plans;

(b) **The compliance element**: the Financial Regulations and Rules, the Staff Regulations and Rules, the Regulations and Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation and the Organization's accounting standards. The mechanisms used for assessing individual and organizational compliance with these regulations, rules and standards include monitoring of delegation of authority and implementation of oversight body recommendations, the procurement-related bid protest system and audits;

(c) **The integrity element**: the standards of conduct for international civil servants, standards of behaviour in the workplace, such as policies against harassment and sexual exploitation and abuse, financial disclosure requirements, protection against retaliation for reporting misconduct and mandatory ethics training for all staff.

7. The General Assembly has long been concerned about the issue of accountability. The Secretary-General, in his previous reports on measures to strengthen accountability at the United Nations (A/60/312) and on investing in the United Nations (A/60/846/Add.6) outlined elements of an accountability system. In the current report (A/62/701 and Corr.1) he has not elaborated on those elements. The Advisory Committee recalls that the terms of reference for the review of accountability were set out by the Secretary-General in his report on the comprehensive review of governance and oversight within the United Nations and its funds, programmes and specialized agencies (A/60/883, para. 14). **In the view of the Advisory Committee, the current report of the Secretary-General responds only partially to key aspects of what the Assembly requested. In fact, the report focuses primarily on only one of the six points set out in the governance report, namely assessment of the current policies with respect to accountability and identification of omissions and weaknesses that need to be addressed. The Committee also considers that the report does not respond to the request by the Assembly for annual reports addressing the measures implemented with the aim of strengthening accountability within the Secretariat and the results achieved (see General Assembly resolution 59/272, para. 9). The Committee would have expected that information would have been provided on concrete cases where accountability measures had been applied and remedial action taken.**

8. The Secretary-General was requested by the General Assembly "to specifically define accountability as well as clear accountability mechanisms, including to the General Assembly, and to propose clear parameters for its application and the instruments for its rigorous enforcement, without exception, at all levels" (General Assembly resolution 60/260, sect. I, para. 2, and the report of the Advisory

Committee, A/60/735 and Corr.1, para. 6). In his report (A/62/701 and Corr.1, para. 20), the Secretary-General indicated that the Secretariat uses the following working definitions of accountability:

(a) **Institutional accountability**: the responsibility of the Secretary-General to explain and justify to the General Assembly and other relevant intergovernmental bodies, in a systematic framework and by an orderly process using transparent mechanisms, the performance of the Organization in using resources to achieve results mandated by the Member States in the Assembly and/or other intergovernmental bodies established under the Charter of the United Nations;

(b) **Personal accountability**: the duty of an individual staff member to exercise defined responsibilities appropriately, with a clear understanding of the consequences, and to explain and justify to the official who conferred the authority the results achieved and the manner in which the authority has been exercised.

The Advisory Committee believes that the definition of accountability should go further than responsibility to "explain and justify" by also establishing responsibility for action or lack thereof.

9. The Advisory Committee notes that other United Nations entities, such as the United Nations Population Fund (UNFPA), the United Nations Office for Project Services and the United Nations Development Programme (UNDP), have defined accountability somewhat differently than the United Nations Secretariat. The International Civil Service Commission defines accountability as a concept that implies taking ownership of all responsibilities and honouring commitments; delivering outputs for which the staff member has responsibility within prescribed time, cost and quality standards; operating in compliance with organizational regulations and rules; supporting subordinates, providing oversight and taking responsibility for delegated assignments; taking personal responsibility for personal shortcomings and, where applicable, those of the work unit (see glossary for human resources framework, A/55/30 and Corr.1, annex II). The Joint Inspection Unit defines accountability firstly, as liability for the use of resources (human, financial and material), but, equally important, as responsibility for programme performance and transparent reporting (see A/61/805, para. 100). The inspectors also considered that the main elements of an accountability system were: (a) responsibility and liability; (b) reporting; (c) monitoring; and (d) administration of justice (see A/59/631, para. 43). **In the view of the Advisory Committee, lack of clarity in the definition of accountability is one of the fundamental weaknesses in the Secretary-General's accountability architecture. The Committee sees merit in the definition of various aspects of accountability outlined by the above-mentioned entities, which, in the Committee's view, could form the basis for a common comprehensive definition of accountability.**

10. As proposed, the accountability architecture would build on the existing accountability framework, under which the Secretary-General delegates authority to his senior managers to implement General Assembly mandates and achieve the expected results within given levels of resources. The Secretary-General reports those results to Member States, which can then hold him accountable for the achievement of expected results (see A/62/701 and Corr.1, para. 10). In paragraph 11 of the report, the Secretary-General also indicated that the oversight bodies play a crucial role in the process, as they determine whether the Secretariat is achieving the intended results and acting ethically and in compliance with regulations and

rules governing its work. **The Advisory Committee shares the Secretary-General's view on the key role of oversight bodies in promoting accountability and stresses the importance of timely implementation of their recommendations (see, in this connection, General Assembly resolution 62/223 B on the implementation of the recommendations of the Board of Auditors). The Committee emphasizes once again that the Secretary-General is ultimately responsible for achieving expected results and reporting on them in a timely and transparent manner. The Committee also stresses that a concrete set of measures should be put in place to ensure the implementation of recommendations of oversight bodies by senior management.**

11. The Secretary-General also reported that the new accountability architecture would capture the important relationship between transparency and accountability (A/62/701 and Corr.1, para. 12). **The Advisory Committee is of the view that this relationship requires further elaboration and recommends that the Secretary-General develop specific measures to ensure that Member States have "unfettered access to timely and reliable information on decisions and performance" (see also E/C.16/2006/4, para. 49).**

12. In figure I of his report, the Secretary-General provides an illustration of the various instruments and mechanisms of and parties to the new accountability architecture. **In the view of the Advisory Committee, the various elements of the new accountability architecture are presented in a manner that does not convey their relative importance or their interrelationships.** For example, the Charter of the United Nations is listed under the integrity "pillar" only among other elements, including, financial disclosure, protection against retaliation and ethics training. The list of documents under the performance "pillar", in the column entitled "Statement of expected results", appears to give equal weight to legislative mandates on the one hand and office workplans and individual workplans on the other. Moreover, there is no mention of Secretariat staff other than the Secretary-General and senior managers in the column entitled "Responsible parties (Secretariat)" under the performance "pillar", although individual workplans are included in the column entitled "Statement of expected results".

13. The Secretary-General indicates, in paragraph 21 of his report, that the accountability framework within the United Nations Secretariat is currently a broad collection of loosely integrated rules, regulations, policies, procedures, protocols, incentives, sanctions, systems, processes and structures that impact the way the mission of the Organization is accomplished. The report also indicated that an independent review of the Secretariat's accountability framework did not uncover any gaps in the framework, although it did identify specific areas of weakness in the current system (A/62/701 and Corr.1, para. 24). According to the Secretary-General, three overall themes emerged from the independent review, namely, that the Secretariat should: (a) focus on results and outcomes; (b) increase transparency in the senior management selection process and in the performance review of senior managers; and (c) change the methods of preparing, motivating and reviewing management and staff.

14. **The Advisory Committee shares the Secretary-General's view that the current accountability arrangements require strengthening, particularly in the area of staff performance management (see also the report of OIOS, A/63/268, paras. 19-25). The Committee notes that the Secretary-General's report**

identifies nine areas for improving accountability in the Secretariat, all of which relate to personal accountability, but that no specific measures are identified that would bring about the intended improvements. Nor are any measures proposed to improve institutional accountability, such as by providing better information to Member States on results achieved and resources used.

15. **The Advisory Committee points out that the effectiveness of measures for strengthening accountability will depend on their rigorous enforcement by the Secretariat.** The Committee reviewed the issue of accountability in its report on the comprehensive review of governance and oversight within the United Nations and its funds, programmes and specialized agencies (A/61/605, paras. 17-21). In that report, the Committee stressed, inter alia, the need for "concrete proposals for specific sanctions to be applied in the case of under- or non-performance, as well as for recognition for outstanding performance" (see A/61/605, para. 21). The proposed accountability framework does not contain any such proposals. Upon enquiry, the Committee was informed that the Secretariat envisages non-monetary ways of recognizing and motivating staff.

16. As indicated in paragraph 26 of the report of the Secretary-General, the first two areas identified for improving accountability in the Secretariat are: development of a written process for the selection of senior managers (improvement area 1) and continuing to implement, expand and refine the senior manager compact process with a focus on delivering results (improvement area 2). **Concerning the selection of senior managers, the Advisory Committee notes that the same point was made more than two years ago by an independent Steering Committee that had examined governance and oversight (A/60/883/Add.1 and Corr.1 (vol. III)) and by the Secretary-General himself. Based on the terms of reference for the accountability review referred to in paragraph 7 above, the Committee had expected concrete progress. In fact, the Committee discerns no enhancement in the transparency of the process for the selection of senior management.**

17. **The Advisory Committee views the senior manager compact process and the posting of compacts on iSeek as useful measures for promoting transparency and accountability. The Committee emphasizes, however, that such measures must be further developed to: (a) define expectations of what top managers should accomplish for the organizational efficiency and effectiveness of their departments; (b) focus on outcomes rather than the administration of inputs; and (c) develop the links between the performance expectations of top managers and performance management at other levels in a department. The Committee reiterates its earlier recommendation that a specific set of sanctions (up to and including termination of employment) should be put in place to deal with failure to perform or poor performance on the part of senior managers up to the level of Under-Secretary-General (see A/60/7, para. 58) and it also recommends that compacts be further developed to address measures related to underperformance by senior managers.**

18. The development of meaningful, results-oriented performance metrics and mechanisms to communicate progress is envisaged under improvement area 3. This initiative is consistent with the Advisory Committee's opinion that "performance measures need to be presented in a quantifiable and more transparent and consistent manner" (see A/60/7, para. 11). Upon enquiry, the Committee was informed that the term "performance measures" is not specifically defined by the Regulations and

Rules Governing Programme Planning, the Programme Aspects of the Budget, the Monitoring of Implementation and the Methods of Evaluation, although the OIOS glossary of monitoring and evaluation terms defines the term as "specific statistics chosen because they provide valid, practical and comparable measures of progress or level of change towards achieving expected results for the period".

19. Improvement areas 4 and 5 deal with the performance appraisal system. The Advisory Committee notes from paragraph 25 of the report that, in a survey to gauge staff perception of accountability, including the performance appraisal system, the majority of respondents did not agree that the e-PAS system is used appropriately to evaluate and document their performance. **The Advisory Committee stresses the need for reform of the current performance appraisal system.** The Committee notes, for example, that 90 per cent of staff were rated as "fully meeting" or "frequently exceeding" performance expectations and 9 per cent as "consistently exceeding" performance expectations during 2006-2007, although the performance indicators for the Secretariat for the period reflected significant deficiencies in delivery of programmed outputs, including delays in issuance of intergovernmental documentation and delays in filling vacancies. **The Advisory Committee has consistently emphasized the importance of developing links between the various monitoring and evaluation systems (see, for example, A/60/7, para. 10). Similarly, in the Committee's view, the systems for appraisal of the various aspects of Secretariat performance, whether through the e-PAS or a programme monitoring system, should be linked.**

20. The Advisory Committee notes the observation in paragraph 29 of the Secretary-General's report that the Secretariat does not systematically monitor the delegation of authority. The Secretary-General indicates that, to address this weakness, the Organization should compile an inventory of existing delegations of authority and monitor, update and report on the use of these delegations regularly. Upon request, the Committee was provided with information on the delegation of authority for financial, procurement, property management and human resources functions (see annex). **The Advisory Committee urges the Secretary-General to proceed with his intention to improve the system of delegation of authority. In the Committee's view, a requirement to report systematically on the exercise of delegated authority should be specified in the senior managers' annual compacts and in e-PAS for line managers and staff. The Committee emphasizes the need to clearly define the responsibilities resulting from delegated authority.**

III. Enterprise risk management and internal control

21. In paragraph 104 (b) of his report, the Secretary-General proposed that the General Assembly endorse the concept of an integrated framework for enterprise risk management and internal control. The Secretary-General also indicated that enterprise risk management would take a systematic and holistic approach, based upon externally developed international standards, to proactively identify, assess, evaluate, prioritize, manage and control risk across the United Nations in order to better achieve the Organization's objectives (A/62/701 and Corr.1, para. 38). In paragraph 49 of his report, the Secretary-General indicated that risk and control management are activities to be owned by the management of the Organization. The Advisory Committee shares the Secretary-General's view that the responsibility for

the establishment of an integrated enterprise risk management and internal control framework rests with the Secretary-General. In order to support the consultation process and begin raising awareness throughout the Organization of the importance of formal risk management, the Secretary-General has proposed the launch of a pilot project to establish and communicate standards and guidelines for risk management for staff at all levels and to integrate these concepts into areas of highest risk (A/62/701 and Corr.1, para. 99).

22. Upon enquiry, the Advisory Committee was informed that, if approved by the General Assembly, the pilot project would provide, inter alia, for the following activities:

(a) Taking stock of existing risk management practices in the Secretariat, with emphasis on lessons learned;

(b) Holding consultations with organizations of the United Nations system that are in the process of establishing a risk management framework and with relevant stakeholders, including Member States;

(c) Drafting an overarching risk management policy for the Secretariat and associated standards and guidelines;

(d) Working closely with two departments/programmes of the Organization, one in an operational area and the other in a non-operational area, in implementing the draft policy in order to test the methodology and analyse the results of the risk management process in the two contrasting areas;

(e) Development of training plans to be used throughout the Organization.

23. Upon enquiry, the Advisory Committee was informed that, in the meantime, the Secretariat had convened an interim informal group of participants representing various parts of the Secretariat, including the Department of Field Support and OIOS. The group is meant to help take stock of existing risk management activities in the Secretariat and may have the effect of cutting down some aspects of the original timeline.

24. The Advisory Committee notes that some funds, programmes, agencies and entities of the United Nations system have already started risk management studies. For example, in October 2003, the Executive Board of the World Food Programme (WFP) encouraged the organization to introduce risk management as a means of ensuring that WFP can reach its aims in an uncertain and risky environment (see WFP/EB.2/2005/5-E/1). **The Advisory Committee emphasizes that the results of the Secretary-General's consultations with United Nations entities on this matter should be reported to the General Assembly.**

25. **The Advisory Committee is not satisfied with the explanation provided by the Secretariat that the expenditure of $1.32 million on the consultancy for the enterprise risk management aspect of the report of the Secretary-General has resulted in value added commensurate with the cost (see also para. 4 above). It regrets that no discernible effort was made to benefit from expertise of the Board of Auditors in this field or the capacity and methodological insight of OIOS and the risk assessments it had been conducting.**

26. The Advisory Committee notes that risk management is not new at the United Nations. Over the years, managers have often been aware of risks and planned

accordingly. At issue is the need to shift from an ad hoc approach to a systematic one based on similar criteria uniformly understood Organization-wide. The efforts of the Secretary-General are consistent with the Committee's earlier observation that the ad hoc management of risk and the absence of clear responsibility for the effectiveness of internal controls constitute serious weaknesses that should be addressed expeditiously (see A/61/605, para. 39). **The Advisory Committee agrees that the Organization should be in a position to assess and manage risks systematically. This would clarify the ultimate responsibility and accountability of senior staff and help to ensure effective programme delivery. This is increasingly important in view of the continuing expansion of United Nations operations worldwide and in view of the uniqueness and inherent complexities of the Organization, which is often mandated to implement activities with a high degree of risk. Given the fact that OIOS and other entities of the Secretariat are involved in carrying out risk assessments, the Committee is of the view that their respective roles in this area should be clarified.**

27. **The Advisory Committee recommends that the Secretary-General continue his work in this area in the light of updated information and the results of consultations with other entities of the United Nations system, as well as the comments and observations in the paragraphs above, and report thereon in the context of the proposed programme budget for 2010-2011.**

IV. Results-based management

28. On the recommendation of the Committee for Programme and Coordination, the General Assembly, in paragraph 2 of its resolution 60/257, endorsed the proposal of the Joint Inspection Unit on the benchmarking framework as a tool for the Secretary-General and the oversight bodies, including the Unit itself, in order to measure the progress towards an effective implementation of results-based management in the United Nations (see A/60/16, para. 248 (a)). The General Assembly, in its resolution 61/245, requested the Secretary-General to submit a report on results-based management. The Unit, in its subsequent report on results-based management (A/62/704), provided further comments and developed the benchmarking framework aimed at bringing coherence to the current reform process of the United Nations. Among other things, the Unit recommended what it called "a golden rule" whereby new reports on the same reform or management processes should be accompanied by an evaluation of the implementation and impact of previous processes. **The Advisory Committee considers this a sound approach.**

29. In order to build upon the existing results-based budgeting processes and move towards a "fully mature results-based management culture", the Secretary-General proposes: (a) a results-based management framework for the Secretariat, comprising five basic principles derived from the collective department experience on results-based management and a number of actions to be taken, requiring the active leadership and commitment of senior-level management; and (b) the establishment of a dedicated capacity for results-based management (see A/62/701 and Corr.1, paras. 86 and 100). While this dedicated capacity would not itself monitor or evaluate programmes, it would provide support to departments and offices in monitoring and evaluation and be responsible for setting standards and policies, training and knowledge-sharing. It would also assist departments and offices in developing schedules for evaluation.

30. The Advisory Committee notes that the Department of Management conducted a comprehensive review of results-based management, in the course of which about 50 staff members and senior managers were interviewed, informal exchanges were held with representatives of the regional groups of the Fifth Committee and an inter-agency workshop with results-based management practitioners from United Nations system organizations was held in Geneva, in collaboration with the secretariat of the United Nations System Chief Executives Board for Coordination (CEB). As indicated in the report of the Secretary-General (A/62/701 and Corr.1, para. 70), the review highlighted a number of problems in results-orientation in the Secretariat, including the following:

(a) The purpose of results-based management is not clear and guidance and overall direction are lacking;

(b) The reporting systems are not sufficiently integrated and do not produce data of the required quality and relevance;

(c) Endorsement and encouragement of results-based management by management is lacking and most managers do not see the current system of managing results as useful to them;

(d) The monitoring of programme and managerial performance and the use of evaluation information are inadequate;

(e) Training and technical support for sustainable implementation of results-based management are inadequate.

31. To facilitate the results-orientation of the Secretariat, and based on the findings of the above-mentioned review, the Secretary-General proposes to strengthen monitoring and evaluation capacities in the Secretariat. As approved by the General Assembly in its resolution 61/245, the functions of monitoring, including responsibility for the biennial programme performance report and self-evaluation that were previously undertaken by OIOS, were transferred to the Department of Management. According to the Secretariat, the transfer will ensure strong managerial ownership of these activities so that they become part of ongoing performance management, planning and control measures. OIOS would continue to undertake in-depth and thematic evaluations (A/62/701 and Corr.1, para. 79).

32. The Advisory Committee notes that a number of specific actions are proposed in the report for strengthening self-evaluation in the Secretariat (A/62/701 and Corr.1, para. 78). **The Advisory Committee regrets that no similar actions are proposed for improving performance monitoring. It is not clear how the urgent issue of timeliness of performance reporting and quality and relevance of performance data would be addressed. The Committee stresses that effective results-based management should be based on reliable and integrated management information systems capable of producing high quality and up-to-date performance data. Programme managers should be equipped with effective information tools and support systems to track and analyse results. In this connection, the Committee draws attention to the issues raised by the Board of Auditors and its related recommendations on information and communications technology (see A/63/5 (vol. I), paras. 310 to 333).**

33. **The Advisory Committee also reiterates its earlier observation that consideration should be given to improving the timeliness of performance reporting so as to allow programme managers to incorporate lessons learned from the assessment of achievements into the preparation of new plans and budgets and to enable all concerned to have the necessary information on past performance in time for decision-making on the future direction of programmes and subprogrammes (see A/62/7, para. VIII.13).**

34. As indicated in the report, the Organization needs to gather and analyse credible information on performance through, inter alia, building cost-effective, user-friendly and relevant results-based management information systems (see A/62/701 and Corr.1, para. 86, principle 3). **The Advisory Committee observes that the report provides no further information on the scope, parameters or time frame for such systems or on how compatible and integrated they will be with the existing and the projected information management systems of the Secretariat, in particular the enterprise resource planning system. In this connection, the Committee draws attention to the recommendation of the Board of Auditors that the Organization adopt a decision on the Secretary-General's proposals related to the enterprise resource planning system of the Secretariat (see A/63/5 (vol. I), para. 136).**

V. Conclusion

35. As indicated in the report of the Secretary-General, should the General Assembly endorse the proposals contained in his report on the accountability framework, enterprise risk management and internal control framework, and results-based management, the related financial implications are estimated at $3,008,600 gross ($2,682,500 net) for the biennium 2008-2009, including a provision of $882,200 for the proposed pilot project on enterprise risk management (see A/62/701/Add.1). Cost estimates for new posts reflect the effective date of 1 July 2008.

36. The Secretary-General is proposing the establishment of a new Division for Accountability and Results Management within the Office of the Under-Secretary-General for Management in order to enable the Organization to become more results-oriented, monitor performance more effectively and strengthen oversight support. The proposed Division would replace the Office for Policy, Analysis and Oversight Support and would comprise three sections: a Results Management Section, a Performance Management Section and an Oversight Support Section, as well as a pilot project on enterprise risk management (see A/62/701/Add.1, para. 4).

37. **While noting the efforts of the Secretary-General to address the issues of accountability, internal control and management practices, the Advisory Committee is of the view that the issues should be further discussed with the other organizations of the United Nations system, inter alia, through the High-level Committee on Management of CEB, and with the oversight bodies. In this regard, the Secretariat should avail itself of the opportunity to exchange views with the Board of Auditors. The Advisory Committee also reiterates its recommendation that use should be made of expertise available within the United Nations system (see A/61/605, para. 16).**

38. **The Advisory Committee recommends that the General Assembly take note of the reports of the Secretary-General (A/62/701 and Corr.1 and Add.1). Subject to the comments and observations in the paragraphs above, the Committee recommends that the Assembly endorse the proposals contained in paragraphs 104 (b) and (c) of the report of the Secretary-General (A/62/701 and Corr.1). The Committee does not recommend approval of the proposed establishment of a dedicated capacity as contained in paragraph 104 (d) of the report. Accordingly the Committee does not recommend approval, at this stage, of the proposed changes to the organizational structure of the Secretariat contained in the report or any of the resources requested in document A/62/701/Add.1.**

Annex

Processes and criteria used to delegate financial, procurement, property management and human resources authorities

Office of Programme Planning, Budget and Accounts

1. According to rule 101.1 of the Financial Regulations and Rules of the United Nations (ST/SGB/2003/7), the authority and responsibility to implement the Financial Regulations and Rules has been delegated by the Secretary-General to the Under-Secretary-General for Management. The Under-Secretary-General has in turn further delegated the same authority and responsibility to the Assistant Secretary-General/Controller and Assistant Secretary-General for Central Support Services through administrative instruction ST/AI/2004/1. The administrative instruction stipulates that the authority and responsibility may be further delegated to other officials, as appropriate.

2. Governed by the above-mentioned framework, the Controller further delegates authority to officials at Headquarters, offices away from Headquarters and missions. Such delegations are personal and are not given solely on the basis of office or function. Requests for delegation are considered on an individual basis and approved based on the capacity of the office or mission, the experience and qualifications of the individual and the requirements to grant authority where it is needed. Examples of such delegations include the authority: to receive contributions; to manage trust funds; to issue allotments, allocations and grants; to sign host country agreements; as well as certifying, approving and bank signatory authority.

3. In addition, the Financial Regulations and Rules state that "officials shall be guided by the principles of effective and efficient financial management and the exercise of economy" (rule 101.1) and that "Any staff member who contravenes the Financial Regulations and Rules or corresponding administrative instructions may be held personally accountable and financially liable for his or her actions" (rule 101.2).

Procurement Service

4. The delegation of procurement authority is currently being issued by the Assistant Secretary-General/Controller through an interoffice memorandum to the Chief of the Procurement Service and to all procurement officers/procurement assistants under the authority granted to him by the Under-Secretary-General for Management dated 15 August 2005, pursuant to the provisions of ST/AI/2004/1. The amount of delegated procurement authority is established according to grade, as follows:

D-1, Chief of Procurement Service — $200,000

P-5, Chief of Section/Senior Procurement Officer — $150,000

P-4, Procurement Officer — $75,000

P-3, Procurement Officer — $50,000

P-2, Associate Procurement Officer — $25,000

G-5 and above, Procurement Assistant — $7,500

Office of Central Support Services

5. Authority is delegated by functional delegation and personal delegation addressed to the staff member. For the authority and accountability for property management, there is no threshold. The delegation is granted to the heads of department at Headquarters via ST/AI/2003/5, whereas in the field, a personal delegation is given to the Assistant Secretary-General of the Department of Peacekeeping Operations, the heads of administration at offices away from Headquarters and others.

Office of Human Resources Management

6. The basic instrument for delegation of authority for the application of the Staff Regulations and Rules is ST/AI/234/Rev.1, as amended by ST/AI/1999/1. Authority to take decisions under particular provisions of the Staff Regulations and Rules is delegated to officials in particular functions, listed in ST/AI/234/Rev.1, as follows:

(a) Secretary-General: as indicated in paragraph 4 of the instruction, the Secretary-General may (and does in practice) further delegate to the Under-Secretary-General for Management authority in matters otherwise reserved to the Secretary-General;

(b) Assistant Secretary-General for Human Resources Management;

(c) Assistant Secretary-General/Controller;

(d) Heads of departments or offices;

(e) Heads of departments and offices away from Headquarters.

7. Additional delegation of authority has been given over the years through specific administrative issuances on particular topics, notably in respect of selection of staff by heads of departments and offices in the context of the staff selection system (ST/AI/2006/3, sect. 9), or to heads of departments or programmes with a special status, such as the Office of Internal Oversight Services (ST/AI/401, as amended by ST/AI/2003/4) or the United Nations Office on Drugs and Crime, which functions under the arrangements originally made for the United Nations International Drug Control Programme (ST/AI/388). Separate arrangements have also been made with certain offices that have demonstrated the capacity to exercise greater delegated authority than under the general system, notably the Department of Peacekeeping Operations, which has received authority to recruit and administer mission staff. A complete update and revision of ST/AI/234/Rev.1 is under preparation.

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Sixty-third session
Judges of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed on the Territory of the Former Yugoslavia since 1991

Security Council
Sixty-third year

Letter dated 24 September 2008 from the Secretary-General addressed to the President of the General Assembly

I attach for your attention two letters, dated 5 June 2008 and 1 September 2008, from Judge Fausto Pocar, President of the International Tribunal for the Former Yugoslavia, addressed to me (see annexes I and II).

President Pocar seeks the extension of the terms of office of the permanent and ad litem judges elected to serve with the Tribunal in 2005 and whose terms of office expire on 16 November 2009 and 23 August 2009, respectively. In addition, President Pocar requests an extension of the terms of the remaining ad litem judges who are not currently appointed to serve at the Tribunal.

In his letter dated 1 September 2008 (see annex II), President Pocar has given details of the necessity and urgency of this request, primarily to ensure that the judges may complete the cases to which they are assigned. You will note that one trial is scheduled to commence on 1 October 2008, and therefore it is a matter of urgency that the judges are immediately assigned to that case.

The statute of the International Tribunal does not provide for the extension of the terms of office of the Tribunal's judges. In the absence of such a provision, the approval of the Security Council, as the parent organ of the Tribunal, and of the General Assembly, as the organ that elects its judges, would be needed.

I would be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly, under agenda item 154 and of the Security Council.

(*Signed*) **Ban** Ki-moon

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Annex I

By the present letter, I wish to bring your attention to the situation of the 27 ad litem judges of the International Tribunal for the Former Yugoslavia, who were elected at the 116th plenary meeting of the fifty-ninth session of the General Assembly on 24 August 2005 and whose four-year term ends on 23 August 2009.

A considerable number of pending trials are unlikely to conclude before 23 August 2009. Consequently, the International Tribunal needs an extension of the terms of the ad litem judges in order to properly manage its trials. Currently, we need an extension of term for two ad litem judges to allow the Tribunal to start cases in July. In that respect, we are seeking assignment from the Secretary-General of ad litem Judges Michèle Picard (France) and Flavia Lattanzi (Italy) to Case No. IT-04-81, *Prosecutor v. Momčilo Perišić*, which is scheduled to start on 24 July 2008 and is anticipated to last approximately 17 months. Given the need to render a number of important decisions before the start of the trial, we request that these assignments take effect on 6 June 2008.

In order to facilitate appointments by the Secretary-General of other ad litem judges to cases currently anticipated to start towards the end of 2009, we request that the terms of our list of elected ad litem judges be extended for a period of 12 months from the expiration of their terms on 23 August 2009.

We would be grateful if the Secretary-General could bring this request to the attention of both the Security Council and the General Assembly as soon as possible and, should the request be received favourably, that the Secretary-General make the assignments of Judges Picard and Lattanzi to the *Perišić* case as a matter of urgency.

(*Signed*) Fausto **Pocar**
President

Annex II

I refer to my letter of 5 June 2008, in which I brought to your attention the situation of the 27 ad litem judges of the International Tribunal for the Former Yugoslavia who were elected at the 116th plenary meeting of the fifty-ninth session of the General Assembly on 24 August 2005 and whose four-year term ends on 23 August 2009. In that letter, I requested an extension of the terms of our list of elected ad litem judges for a period of 12 months from the expiration of their terms on 23 August 2009.

While the request made in my letter of 5 June 2008 remains pending, it appears prudent for me to make additional requests, as follows:

1. Urgent request for the extension of three ad litem judges

The first request pertains to the extension of the terms of office of ad litem Judges Michèle Picard and Pedro David in order that they may sit in the trial of *Prosecutor v. Momčilo Perišić*, Case No. IT-04-81, and of ad litem Judge Flavia Lattanzi so that she may sit in the trial of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69. The reasons are as follows.

I refer to my letter of 19 February 2008, in which I requested the appointment of ad litem Judge David to the *Stanišić* and *Simatović* case, my two letters of 26 May 2008, in which I requested, respectively, the appointment of ad litem Judges Lattanzi and Picard to the *Perišić* case, and my letter of 15 July 2008, in which I requested, due to scheduling conflicts, that Judge Lattanzi be withdrawn from the *Perišić* case and be appointed to serve on the *Stanišić and Simatović* case and that Judge David be withdrawn from the *Stanišić and Simatović* case and appointed to serve on the *Perišić* case.

As I advised in my letters of 26 May and 15 July 2008, the appointment of ad litem Judges Picard and David to the *Perišić* case would require an extension of their terms of office. In order to ensure the efficient management of the Tribunal, one must be certain that an ad litem judge appointed to a trial will be available until completion of that trial. If an ad litem judge had to be replaced in the course of a trial because his or her term of office comes to an end, the trial would have to be restarted. This would clearly cause significant delay and adversely impact our meeting completion strategy targets. For this reason, the extension at this time of the terms of office of ad litem Judges Picard, David and Lattanzi is a matter of urgency.

The *Perišić* trial is scheduled to start on 1 October 2008, and due to its complexity, is anticipated to last a period of 24 months — that is, until October 2010. The accused, Momčilo Perišić, who served as Chief of General Staff of the Yugoslav Army between August 1993 and November 1998, is the most senior military leader to be tried at this Tribunal. He is charged with direct and superior responsibility for 13 counts of war crimes (murder and attacks on civilians) and crimes against humanity (extermination, murder, persecutions and inhumane acts) in relation to events alleged to have taken place in Sarajevo (between August 1993 and November 1995), Zagreb (between 2 and 3 May 1995) and Srebrenica (between 12 and 20 July 1995). The case involves a very large amount of evidence (9,000 exhibits and 229 Prosecution witnesses), and extensive pretrial management has taken place. The Prosecution has already reduced its case from 907 to 480 hours

and, at the invitation of the Chamber, parties are exploring further avenues to reduce the length of the case.

To enable ad litem Judges Picard and David to serve on the *Perišić* trial, in light of the aforementioned trial schedule, we currently need an extension of their terms beyond the date of 23 August 2009, when their terms are scheduled to expire, in order that they may complete the case.

As for the *Stanišić and Simatović* case, the trial is currently adjourned and is anticipated to recommence in September 2008 and to take 12 months, concluding in September 2009. The extension of the term of office of Judge Lattanzi is therefore also required to the conclusion of the trial.

2. Urgent request for the extension of two permanent judges

In addition to the three ad litem judges above, I also seek the urgent extension of the terms of office of permanent Judge Bakone Justice Moloto to enable him to complete the *Perišić* case, and permanent Judge Patrick Robinson to enable him to complete the *Stanišić and Simatović* case. The term of office for both judges will expire on 16 November 2009.

In light of the *Perišić* trial schedule previously outlined, it would be necessary to extend Judge Moloto's term of office beyond the date of 16 November 2009 to enable him to complete the *Perišić* case.

The *Stanišić and Simatović* trial is scheduled to recommence in September 2008 and anticipated to last for approximately 12 months. However, the Trial Chamber has faced numerous difficulties in connection with the illness of one of the accused and of the defence counsel. It is therefore highly likely that the trial will not conclude by 16 November 2009. For this reason, I request the extension of Judge Robinson's term of office in order that he may complete the *Stanišić and Simatović* should it continue beyond the expiry of his term of office.

3. Request for extensions in two cases pending trial

In order to avoid returning to the Security Council with further requests for extensions in the coming months, I also now request extensions of the terms of office of the ad litem and permanent judges to be assigned to the following cases expected to commence before the end of the year:

(a) Prosecutor v. Mićo Stanišić, Case IT-04-79

The *Stanišić* case is scheduled to commence in October 2008 for an estimated period of 12 months. I intend to request that ad litem Judge Fredrik Harhoff be appointed to sit on this case. I therefore seek the extension of Judge Harhoff beyond the date of 23 August 2009 in order that he may conclude the case. Currently, there is a pending motion to join the *Stanišić* case with the case of *Prosecutor v. Stojan Župljanin*, Case No. IT-99-36/2. Should that joinder motion be successful, this case will be jointly tried with the *Stanišić* case and the two cases should be completed within 18 months.

(b) Prosecutor v. Vlastimir Đorđević, Case No. IT-05-87/1

The *Đorđević* case is currently scheduled to start in November 2008 in the event that the *Stanišić and Simatović* is unable to recommence in September 2008 due to the illness of the accused. I intend to seek the appointment of ad litem Judges Lattanzi and Picard and permanent Judge Flügge to sit on this case. This case is anticipated to last for approximately 12 months. It would therefore be necessary to extend the terms of ad litem Judges Lattanzi and Picard beyond the date of 23 August 2009 in order that they may conclude this case.

4. Request for extensions in ongoing trials

The trial of *Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Corić and Berislav Pušić*, Case No. IT-04-74, commenced on 26 April 2006 and is currently estimated to conclude in March 2010. This case is presided over by Judge Jean-Claude Antonetti, and with him sit three ad litem judges, Judges Árpád Prandler, Stefan Trechsel and Antoine Kesia-Mbe Mindua (reserve). In order to enable these judges to complete this trial, I hereby request an extension of the term of office of permanent Judge Antonetti beyond the date of 16 November 2009 and the extension of the terms of office of ad litem Judges Prandler, Trechsel and Mindua from 23 August 2009 to enable them to complete the case.

The trial of *Prosecutor v. Ante Gotovina, Ivan Čermak and Mladen Markač*, Case No. IT-06-90, commenced on 11 March 2008 and is currently expected to conclude in October 2009. The trial is presided over by permanent Judge Alphons Orie, and with him sit two ad litem judges, Judges Uldis Ķinis and Elizabeth Gwaunza. The length of this case is now expected to exceed the terms of office of the two ad litem judges appointed to this case. I hereby also requested the extension of the terms of office of Judges Ķinis and Gwaunza to enable them to complete the case.

5. Future requests

I would like to emphasize that it would be greatly preferable for the Tribunal to have maximum flexibility in the assignment of its ad litem and permanent judges, and in that respect, for the Security Council to grant the request I made in my letter of 5 June 2008 (A/62/897-S/2008/437, annex), to extend the term of the Tribunal's ad litem judges by a period of 12 months. This would also ensure that the Tribunal is accorded the same treatment as has been given to judges of the International Criminal Tribunal for Rwanda. Additionally, rather than seek a piecemeal approach to the extension of the Tribunal's permanent judges, it would also be greatly preferable if the Tribunal is given maximum flexibility and the terms of all of its permanent judges were extended. Again, this would ensure equal treatment of the Tribunal's permanent judges with those of the International Criminal Tribunal for Rwanda. In any event, I note that all of the Tribunal's existing permanent judges assigned to the Appeals Chamber will have to be extended beyond the expiration of their term in November 2009, as it is currently anticipated that appeals work will not be completed until the close of 2011, at the earliest. Additionally, I note that it is anticipated that an influx of appeals cases from the International Criminal Tribunal for Rwanda will arrive at the end of 2009 and will necessitate the transfer of some of the Tribunal's trial judges to the Appeals Chamber. I would appreciate it if the

request for the extension of the terms of the identified permanent judges in the above instances could be considered against the likelihood that all of the Tribunal's permanent judges will, of necessity, require extensions.

(a) *Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88

It is presently anticipated that the *Tolimir* trial will commence in July 2009, with two permanent judges and one ad litem judge. The current estimate is that this case will run for a period of 14 months, to conclude by September 2010. I am not in position at present to determine which judges will be sitting in this trial, however I expect that it will be two permanent judges and one ad litem judge. I wish, however, to draw your attention to the fact that it will be necessary at a future stage to extend the terms of office of the permanent and ad litem judges to enable them to conclude the case.

(b) *Prosecutor v. Stojan Župljanin*, Case No. IT-99-36/2

Currently, there is a pending motion to join the *Župljanin* case with the *Stanišić* case. The situation in case of joinder is described in section 3 (a) above. It is too early to determine which judges would be assigned to sit on the separate trial in the *Župljanin* case in the event the joinder motion is denied.

(c) *Prosecutor v. Radovan Karadžić*, Case No. IT-95-5/18

The trial of Radovan Karadžić had not yet been factored into the overall Tribunal trial schedule, his arrest having only been effected on 21 July 2008. It can however be anticipated that the extension of the terms of office of both the permanent and ad litem judges will be required.

Kindly note that the anticipated commencement of the above trials and the projected length of each case as provided in the aforementioned paragraphs are based on current estimates. These estimates are subject to delays due to factors beyond the control of the Tribunal, such as the health of the accused. On the other hand, please rest assured that the Tribunal continues to seek new ways of expediting its proceedings without sacrificing the due process rights of the accused.

Additionally, due to the complexities of trying to schedule seven trials in only three courtrooms, it can happen that an anticipated assignment is rendered impossible due to conflicts in the court schedule, delays in other trials to which a judge is already assigned and other unforeseen complications. Thus, while the Tribunal has attempted to anticipate the assignments that will be requested for its next cases, such an assessment is more art than science. In this respect, the Tribunal would be in a position to better manage its proceedings by being granted flexibility in its assignments through extensions of terms of all of its ad litem judges and permanent judges.

Financial implications

The budget of the International Tribunal for the biennium 2008-2009, as approved by the General Assembly in December 2007, is based on the assessment of judicial needs as detailed in the present letter. I should note that the approved budget does not account for the additional budgetary implications related to two accused, Stojan Župljanin and Radovan Karadžić, whose arrests occurred after the

submission and approval of the budget. Save for these two accused, the above requests pose no additional budgetary implications for the Tribunal.

I would be grateful if you could bring this request to the attention of both the Security Council and the General Assembly as soon as possible, and should the request be received favourably, make the necessary appointments of ad litem judges as a matter of urgency.

I remain at your disposal for any additional information you may require concerning my request. Thank you in advance for your action in this regard.

(*Signed*) Fausto **Pocar**

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Report of the Secretary-General on the situation of human rights in the Islamic Republic of Iran*

Summary

The present report, submitted in accordance with General Assembly resolution 62/168, is intended to reflect the broader patterns and trends in the human rights situation in the Islamic Republic of Iran on the basis of that country's international treaty obligations and the observations made by treaty monitoring bodies and the special procedures of the Human Rights Council. While the report focuses especially of the concerns identified in the resolution, it also includes a section on economic, social and cultural rights in order to present a picture of the entire spectrum of civil, cultural, economic, political and social rights in the Islamic Republic of Iran.

The report consists of an overview of the legal and institutional framework in the Islamic Republic of Iran; highlights of positive developments as well as protection gaps in the area of economic, social and cultural rights; thematic issues in the area of civil and political rights identified in the General Assembly resolution, in particular concerns raised by the international human rights mechanisms; an overview of the country's cooperation with the Office of the United Nations High Commissioner for Human Rights and international human rights mechanisms, including in the areas of treaty ratification and reporting and interactions with the special procedures, including in-country missions; and conclusions and steps that may be taken by the Iranian authorities.

* The present report was submitted after the deadline as a result of consultations with the Member State.

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I. Introduction

1. The present report is submitted in accordance with General Assembly resolution 62/168, in which the Assembly requested the Secretary-General to submit to it at its sixty-third session a comprehensive report on the situation of human rights in the Islamic Republic of Iran.

2. The report is intended to reflect the broader patterns and trends in the human rights situation in the Islamic Republic of Iran, based on international treaty obligations, and includes observations made by treaty monitoring bodies and the special procedures of the Human Rights Council.[1] While the concerns identified in the resolution are given special focus, the report also includes a section on economic, social and cultural rights in order to present a picture of the entire spectrum of civil, cultural, economic, political and social rights in the Islamic Republic of Iran.

II. Legal and institutional framework of the Islamic Republic of Iran relevant to the promotion and protection of human rights

A. Legal framework

3. The 1979 Constitution of the Islamic Republic of Iran guarantees a wide range of human rights and fundamental freedoms. However, in practice there are a number of serious impediments to the full protection of human rights and the independent functioning of the different institutions of the State.

4. The Iranian Constitution contains a comprehensive chapter on rights of the people encompassing civil and political rights as well as economic, social and cultural rights: non-discrimination (art. 19), equality before the law (art. 20), women's rights (art. 21), the right to human dignity (art. 22), freedom of belief (art. 23), freedom of the press (art. 24), secrecy of communication (art. 25), freedom of association (art. 26), freedom of assembly (art. 27), the right to work (art. 28), welfare rights (art. 29), the right to education (art. 30), the right to housing (art. 31), arbitrary arrest (art. 32), the right to residence (art. 33), the right to recourse to the courts (art. 34), the right to counsel (art. 35), sentencing in accordance with the law (art. 36), the presumption of innocence (art. 37), the prohibition of torture (art. 38), the rights of arrested persons (art. 39), limitation of rights based on public interest (art. 40), the right to citizenship (art. 41) and naturalization (art. 42).

5. In an effort to facilitate judicial enforcement of the fundamental rights enshrined in the Constitution, the Government has developed complementary legislation on "citizens' rights" aimed at providing the courts with a new enforcement tool. The bill was passed by Parliament and approved by the Guardian Council on 4 May 2005. On 22 May 2008, it was published in the Official Gazette and given legal effect.

[1] It should be noted that some concluding observations, for instance by the Human Rights Committee in 1993, are now dated owing to the long delay in periodic reporting by the Islamic Republic of Iran, although the concerns cited herein remain valid.

6. The Penal Code and the Code of Penal Procedure provide various procedural guarantees aimed at ensuring due process of law and fair trial rights. For instance, article 190 of the Code of Penal Procedure requires that defence lawyers be given full access to prosecution documents and time to review them. However, some provisions fall short of international human rights standards. For instance, article 33 of the Code of Criminal Procedure allows for a suspect to be detained without charge for one month, which may then be renewed.

7. It was reported that a revised Penal Code drafted in January 2008 was being debated in Parliament at the time of preparation of the present report. The revised Penal Code, if adopted, contains some provisions that would be incompatible with international human rights standards, including an article on apostasy that would make the death penalty mandatory for conversion from Islam to other religions.

B. Institutional framework

8. While the Constitution provides for a separation of powers between the executive, legislative and judicial functions, there are a number of institutional constraints on their independent functioning and ability to protect human rights.

9. Despite the separation of powers provided for in article 57 of the Constitution, the Supreme Leader, currently Ayatollah Ali Khamenei, supervises the executive, legislative and judicial branches and other key institutions (E/CN.4/2006/61/Add.3, para. 12). This is reinforced by the system of advisory councils provided for in the Constitution. The Guardian Council is composed of six theologians appointed by the Supreme Leader and six jurists nominated by the judiciary. It has the power to veto the bills passed by Parliament if it views them as being inconsistent with the Constitution and sharia law. The Expediency Council serves as an advisory body for the Supreme Leader with an ultimate adjudicating power in disputes over legislation between Parliament and the Guardian Council. The Assembly of Experts, comprising clerics elected through a general election, has the power to appoint and remove the Supreme Leader.

10. The Supreme Leader appoints the head of the judiciary who in turn appoints the head of the Supreme Court and the Chief Public Prosecutor. The Iranian judicial system has three tiers: regular civil and criminal courts are overseen by courts of appeal that are in turn are supervised by the Supreme Court. There are specialized courts at different levels, such as the administrative court, family courts and juvenile courts. There are also special public and revolutionary courts that try certain categories of offences, including crimes against national security and narcotics smuggling. Decisions rendered in revolutionary courts can be appealed, except for sentences of less than three months' imprisonment and fines under 500,000 rials. Special courts handle cases involving military personnel and the clergy. The Working Group on Arbitrary Detention, during its visit in 2003, raised concerns about the impact of such courts on the principle of equality before the law. The Working Group called for their functions to be transferred to the ordinary courts.

11. The Working Group also noted that the abolition of prosecutors between 1995 and 2002 was one of the main reasons for the malfunctioning of the justice system (E/CN.4/2004/3/Add.2 and Corr.1). Prosecutors were reintroduced to the system in 2002; however they remain functionally part of the judiciary under the supervision of the head of the judiciary and do not exercise a fully independent role.

12. A further institutional problem noted in section IV below is the enforcement of directives issued by the head of the judiciary, for instance the prohibition on stoning and public executions. Iranian judicial authorities informed the Office of the United Nations High Commissioner for Human Rights (OHCHR) that these circulars are intended as interim measures until the passage of new laws. They also informed OHCHR that there are now "supervisory bodies" at the lower levels of the judiciary, particularly in the regions, to ensure greater consistency in the application of such rules.

13. There are several other institutional mechanisms that provide opportunities for citizens to seek redress. Article 174 of the Constitution provides for a National General Inspectorate under the supervision of the head of the judiciary that supervises the proper conduct of affairs and the correct implementation of laws by the administrative organs of the Government. The Inspectorate reportedly handles individual complaints and is somewhat akin to an ombudsman system. Under article 90 of the Constitution, the Parliament can also examine and investigate written complaints by the public against its own work and the work of the executive and judicial branches. In addition, there are quasi-judicial institutions, including arbitration and dispute settlement councils, which settle large volumes of cases of a non-judicial or less complicated nature and increase the public's participation in and contribution to the proceedings. Moreover, the Islamic Human Rights Commission, established in 1996, is a consultative body composed of representatives of the Government and the judiciary that monitors the human rights situation in the country. It has not been recognized by the International Coordinating Committee of National Human Rights Institutions as complying with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In addition, the Islamic Republic of Iran has established a human rights headquarters to facilitate international cooperation and to coordinate Government bodies in human rights-related matters.

III. Economic, social and cultural rights

14. The Islamic Republic of Iran has made gains over the past decade or more in the area of economic, social and cultural rights, although significant disparities remain between urban centres and less-developed regions. Since the 1979 revolution, the Government has pursued socio-economic policies centred on Islamic values, which focus very much on the redistribution of wealth and poverty reduction.

15. While the Islamic Republic of Iran is a party to the International Covenant on Economic, Social and Cultural Rights, it has not reported to the Committee on Economic, Social and Cultural Rights since 1993. The Committee raised concerns about the treatment of minority groups, discrimination between men and women, and legislation and policies on cultural freedom (E/C.12/1993/7).

16. According to the United Nations Development Programme Human Development Report for 2007/2008, the human development index of the Islamic Republic of Iran rose from 0.649 in 1991 to 0.759 in 2005. This largely reflected increases in per capita income and the allocation of a large proportion of the public budget to social activities. A review of the country's performance in meeting the Millennium Development Goals found that the percentage of the population living

on less than $1 a day had decreased from 0.9 per cent in 1999 to 0.2 per cent in 2005; the percentage living on less than $2 a day had also declined, from 7.3 per cent in 1999 to 3.1 per cent in 2005. Those trends have reportedly slowed during recent years owing to high inflation and increases in consumer prices, but those factors have been offset to some degree by State support. The proportion of underweight children decreased from 15.8 per cent in 1991 to 5 per cent in 2004.

17. The Islamic Republic of Iran has also shown greatly improved results in the education sector, while challenges include a significant rise in the school-age population and the inadequate provision of facilities in rural areas. Net enrolment in primary education steadily increased, from 85 per cent in 1990 to 98 per cent in 2005. In the same period, primary school dropout rates decreased from 13 per cent to 6.6 per cent. Literacy rates among 15- to 24-year-old men and women also increased and progressively equalized, rising from 92.2 and 81.1 per cent respectively in 1990 to 98.1 and 96.7 per cent in 2005.

18. Those demographics make employment an important challenge for the Government, with an annual demand for about 800,000 jobs among the younger generation. Unemployment among women is especially acute and, with increased female university enrolment, rose from 26.8 per cent in 1996 to 40.6 per cent in 2001.

19. In the field of health, the expansion of health facilities, particularly for primary health care, has led to significant improvement in life expectancy, which rose from 64.8 years for men and 65.8 years for women in 1991 to 70.5 and 72.8 years respectively in 2004. The under-5 mortality rate also decreased, from 44 per 1,000 births in 1991 to 36 per 1,000 births in 2001. Maternal mortality due to complications in delivery was also reduced, from 54 to 37 per 100,000 live births during the same period. The proportion of births attended by skilled health personnel increased to about 97.3 per cent.

20. These positive achievements are offset, however, by regional disparities within the country. In terms of the human development index, there is a gap of more than 2 percentage points between the most and least developed provinces. This appears to be driven primarily by income disparities due to a lack of employment opportunities, which in turn are contributing to internal migration from the rural areas to the cities. Disparities are also recorded along gender lines, and these are analysed in more detail in section IV.E. Disaggregated data were not available on minority groups, although discrimination was reported against the Baha'i community; the Committee on Economic, Social and Cultural Rights, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations and the special procedures mandate-holders have previously expressed concern in this regard.

IV. Civil and political rights

21. The past year has seen both positive and negative developments in the area of civil and political rights. Local human rights activists have continued to engage in strong advocacy on human rights issues, increasing public awareness and influencing the decision-making process in various State institutions such as the Parliament. During past years, a public platform was created for debates on human rights issues in the Islamic Republic of Iran, including in the context of general

elections. As described in the relevant sections of the present report, the Iranian authorities have also taken positive steps that suggest responsiveness to local and international concerns on such issues as the death penalty for juveniles, stoning and public executions, although these have not been fully addressed. Whereas steps were taken in Parliament to review legislative provisions that discriminate against women, there is still much room for improvement in this area.

22. Some negative trends have also been reported, including an increase in rights violations targeting women, university students, teachers, workers and other activist groups. Ongoing harassment against human rights defenders, including women's rights activists, has been reported.[2] The independent media have also experienced tightened restrictions, with numerous publications suspended. While two Iranian-American dual nationals detained in 2007 have been released on bail, there were further high-profile arrests of members of the Baha'i community. The Iranian authorities state that those cases relate to espionage and national security concerns.

23. The death penalty continued to be widely applied, including in some cases involving juveniles. There were at least some cases of stoning and public execution, despite moves by the authorities to curb such practices. Cases of amputation and flogging and suspicious deaths and suicides of prisoners while in custody were also reported. The information available on each of the thematic concerns identified in General Assembly resolution 62/168 is summarized in the following sections.

A. Torture and cruel, inhuman or degrading treatment or punishment, including flogging and amputations

24. As noted above, article 38 of the Constitution prohibits torture, however, the Penal Code does not contain a clear definition of torture as a specific criminal offence. It was reported that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was submitted and approved by the sixth Parliament on 15 December 2002, however it was rejected by the Guardian Council, reportedly because of perceived conflicts with Islamic rules and principles.

[2] According to a local non-governmental organization led by Shirin Ebadi, a Nobel Peace Prize laureate, in 2007 there were 138 informal "requests" for interviews of citizens by the security force or by the judiciary without arrest warrants, 297 arrests and 132 trial cases in the court that resulted in a large number of penal verdicts, including 82 cases of imprisonment of rights activists, union workers, students and teachers. The Iranian authorities dispute these numbers.

25. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has sent a large number of communications to the Iranian authorities concerning serious allegations of torture. In 2007 alone, he sent 24 joint communications and one urgent appeal.[3] The Iranian authorities denied the allegations of torture in most of these cases and responded that fair trials had been conducted with commensurate sentences issued.

26. Amputation and corporal punishment, although justified by the authorities as Islamic punishments, remain a serious cause for concern.[4] When the last periodic report of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights was considered in 1993, the Human Rights Committee concluded that the application of extremely severe punishment, such as flogging, stoning and amputation, was not compatible with the provisions of article 7 of the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party. In its concluding observations in 2005, the Committee on the Rights of the Child expressed its deep regret that:

> ... under existing laws, persons below the age of 18 who have committed a crime can be subjected to corporal punishment and sentenced to various types of torture or other cruel, inhuman or degrading treatment or punishment, such as amputation, flogging or stoning, which are systematically imposed by judicial authorities ... (CRC/C/15/Add.254, para. 45).

27. An Iranian news agency reported that the hands of four people had been cut off in the city of Mashad. In addition, on 10 January 2007, the same news agency quoted the chief of the judiciary in the western city of Kermanshah as saying that soon there would be a number of limb amputations in public in connection with robberies in the province. Furthermore, it was reported that those accused of homosexual acts were routinely flogged and threatened with execution.

28. The Working Group on Arbitrary Detention, during its visit from 15 to 27 February 2003, noted the widespread use of solitary confinement and "incommunicado" imprisonment for its own sake, not for traditional disciplinary

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[3] For instance, on 2 August 2007, the Special Rapporteur expressed concern over the allegations that a detainee in Marivan was held in a cell measuring 1 square metre, was beaten and was barely fed. He was also repeatedly hung by his hands in a room filled with sewage and excrement and forced to keep his head lifted in order to avoid drowning. On 3 April 2007, the Special Rapporteur sent another communication regarding five men who had allegedly confessed under torture to a number of crimes that had taken place in March 2006. Reports claimed that the detainees had been branded with a red-hot iron, subjected to broken bones in their hands and feet and tortured by an electric drill applied to their limbs. In another case raised by the Special Rapporteur on 1 June 2007, an advocate of linguistic and social rights for Iranians of Azerbaijani ethnicity from the Khoy region is alleged to have been tortured, resulting in extensive bruising on his torso and broken ribs. The prisoner's mother was informed he had been executed and was instructed to collect the body at the prison. Upon arrival, she was informed he had not yet been executed, but she was denied visitation rights.

[4] It is reported that during a nationwide crackdown on "immoral behaviours" in May 2007, police raided a private party in Esfahan, arresting 87 persons, including 4 women and at least 8 people whom they accused of wearing the clothing of the opposite sex. It was reported that police stripped many of them to the waist in the street and beat them until their backs or faces were bloody. Twenty-four of those arrested were tried for "facilitating immorality and sexual misconduct", as well as possession and consumption of alcohol. In June 2007 a court in Esfahan found all of them guilty of various combinations of those charges. Most were sentenced to up to 80 lashes and fines of 10 million to 50 million riyals ($1,000-$5,000). The verdicts are under appeal and have not yet been enforced.

purposes (E/CN.4/2004/3/Add.2 and Corr.1, para. 54). However, the Iranian authorities informed OHCHR that such imprisonment was allowed only in exceptional cases and was limited to very serious crimes, such as murder and espionage, in accordance with the Code of Penal Procedures. The duration of solitary confinement has been reduced from one month to 20 days.

B. Death penalty and public executions

29. The Working Group on Arbitrary Detention noted that the Iranian Penal Code retains five categories of crimes to which diverse punishments can be applied: *hudud, qisas, diyah, ta'zir* and preventive punishments (see E/CN.4/2004/3/Add.2 and Corr.1). *Hudud* constitutes crimes against divine will, the applicable punishments for which include the death penalty, crucifixion, stoning, amputation of the right hand and, for repeat offences, the left foot, flogging, imprisonment and exile. *Qisas* is retribution in kind, broadly similar to "an eye for an eye". Proceedings against the life or physical integrity of the person are subjected to the decision of the victim, who may ask for the guilty party to suffer the same treatment or may accept financial compensation (*diyah*) in the case of murder or physical injury. *Ta'zir* constitutes crimes that incur discretionary punishments applied by the State that are not derived from the Islamic sharia law.

30. The death penalty is imposed for certain *hudud* crimes, including adultery, incest, rape, fornication for the fourth time by an unmarried person, drinking alcohol for the third time, sodomy, sexual conduct between men without penetration for the fourth time, lesbianism for the fourth time, fornication by a non-Muslim man with a Muslim woman, and false accusation of adultery or sodomy for a fourth time. Furthermore, the death penalty can be applied for the crimes of enmity with God (*mohareb*) and corruption on earth (*mofsed fil arz*) as one of four possible punishments. Under the category of *ta'zir* crimes, the death penalty can be imposed for "cursing the Prophet" (art. 513 of the Penal Code). The death penalty may also be applied to such crimes as drug smuggling or trafficking, murder, espionage and crimes against national security.

31. The continuing high incidence of executions remains an ongoing concern, with a sudden surge of executions reported in recent months, which the authorities argue are part of efforts to combat drug trafficking. For instance, on 27 July 2008, there were reportedly 29 executions, 18 for drug-related offences.

32. The Human Rights Committee expressed grave concern over the extremely high number of death sentences, many resulting from trials in which the guarantees of due process of law had not been properly applied (CCPR/C/79/Add.25, para. 8). Under the International Covenant on Civil and Political Rights, to which the Islamic Republic of Iran is a party, the application of the death penalty is limited to the most serious crimes and should be applied only in a most restrictive manner while ensuring for the utmost procedural safeguards.

33. In January 2008, the spokesperson of the Iranian judiciary announced that the head of the judiciary had issued a circular banning public execution. The circular applies to all cases and provides that exceptions will be formally decided and approved by the head of the judiciary when and where needed. The circular also

forbids publishing pictures of executions in the newspapers and other media. However, public executions are reported to have still occurred.[5]

C. Stoning as a method of execution

34. In January 2002, the head of the judiciary issued a circular to prohibit stoning as a punishment. However, as in the case of the ban on public executions, this circular does not have a binding legal effect and serves only as an instruction for individual judges.

35. There have been several reports of stoning since this prohibition was declared. In May 2006, two people were stoned to death in Mashad. In July 2007, one male was reportedly stoned to death in Qazvin, although his partner was released from jail in early 2008. The United Nations High Commissioner for Human Rights expressed deep concern over this case in a public statement on 10 July 2007. The special procedures of the Human Rights Council have also voiced their concerns in several communications with the Iranian Government over the practice of stoning women, in particular for reasons of adultery. The existing Penal Code prescribes execution by stoning as the penalty for adultery by married persons.

36. It is reported that stoning verdicts have been suspended for at least 14 people: 11 women and 3 men. It was also reported, in July 2008, that nine people had been sentenced to stoning for adultery, although those figures are disputed by the Iranian authorities. Civil society in the Islamic Republic of Iran is also actively campaigning for the abolition of stoning. The "campaign to stop stoning forever", launched in 2006, is aimed at documenting cases of stoning sentences, identifying attorneys willing to represent the accused and working towards the abolition of stoning altogether.

D. Juvenile executions

37. The head of the judiciary has reportedly established a moratorium on juvenile executions. Once again, the moratorium is not legally binding for judges as it is in the form of an administrative circular, not a law, and cases of execution of juveniles continue to be reported. It appears that the judicial authorities are seeking to delay juvenile death penalty cases on procedural grounds, to maximize both judicial scrutiny and the time available for the families of the victim and perpetrator to reach a *diyah* settlement in accordance with Islamic law.

38. In addition, it is reported that a bill on the establishment of juvenile courts is currently under review by the Parliament. The bill has reportedly been approved "in general" by a majority of parliamentarians and referred to a special committee for more detailed review. The bill promotes principles of restorative justice and provides for diversion from the criminal system to community-based solutions and alternatives to criminal sentences. It is understood that the bill will neither abolish the death penalty for those under the age of 18 who have committed crimes nor formally raise the age of criminal responsibility. However, it represents an important

[5] Amnesty International reported that four men, including one Afghan refugee, were publicly executed in Borazjan on 10 July 2008.

step towards the harmonization of the Iranian legal system with relevant international standards in the area of juvenile justice.

39. Despite these positive developments, it is reported that a large number of juvenile executions are still carried out. Amnesty International reported that between 1990 and 2006, the Islamic Republic of Iran had executed 22 child offenders, constituting almost half of the total number (51) of juvenile executions worldwide during the reporting period. It was further reported that a total of 107 offenders under the age of 18 had been sentenced to death; 36 of those cases are now in the final stages. The Iranian authorities dispute those figures and point to a diminishing trend in juvenile executions over time.

40. Both the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, to which the Islamic Republic of Iran is a party, obligate States parties not to impose the death penalty on those who commit a crime under the age of 18.

41. The age for criminal responsibility under Iranian law is set at 14 years and 7 months for boys and 8 years and 9 months for girls, which is not only discriminatory but also low by international standards. Accordingly, children who commit serious crimes can be processed as adults under the Penal Code (see E/CN.4/2002/42, para. 98). Furthermore, there is a possibility of death sentence under *qisas* (retribution in kind) for juvenile offenders, unless *diyah* is agreed or the offender is forgiven by the victim's family. The sharia jurisprudence considers *qisas* a private right of the family of the victim that cannot be overruled by the decision of a judge or any other authority. In this connection, Iranian officials exclude the State's responsibility for *qisas* cases.[6]

42. In 2005, the Committee on the Rights of the Child expressed grave concern that juvenile executions had continued and urged the Islamic Republic of Iran to take the steps necessary to immediately suspend the execution of the death penalty imposed on persons for having committed a crime before the age of 18, to take the appropriate legal measures to convert them into penalties in conformity with the provisions of the Convention on the Rights of the Child and to abolish the death penalty as a sentence imposed on persons for having committed crimes before the age of 18, as required by article 37 of the Convention on the Rights of the Child.

43. The United Nations High Commissioner for Human Rights has given high priority to the issue of juvenile execution in her dialogue with the Iranian authorities, which has led to a number of interventions on individual cases through private representations with the Permanent Mission of the Islamic Republic of Iran to the United Nations at Geneva, letters to the Foreign Minister and public statements. For instance, on 6 December 2007, the High Commissioner expressed grave concern over the execution of Makwan Moloudzadeh the previous day in a prison in Kermanshah Province. It was reported that Mr. Moloudzadeh had been convicted of the rape of three boys seven years earlier, when he was 13 years old, and that the execution had been carried out despite his alleged victims' withdrawing

[6] International human rights law does not make a distinction for *qisas* cases, as convicts are still put to death by the State.

their accusations and the head of the judiciary issuing an order to stay the execution pending a further judicial review of the sentence.[7]

44. On 10 June 2008, the High Commissioner publicly expressed her concern over reports that four juvenile offenders, Behnoud Shojaaee, Mohammad Fadaaee, Saeed Jazee and Behnam Zaare, had been sentenced to death for crimes that they had committed when they were under the age of 18. She acknowledged the steps taken by the Iranian authorities to subject those cases to closer judicial scrutiny and to encourage settlements between perpetrators and the victims' families. The High Commissioner, however, reminded the Iranian authorities of the absolute prohibition on the application of the death penalty for juvenile offenders under international law. It was reported that their executions had been postponed, and the case of Mr. Jazee was reportedly settled with the victim's family.

45. In addition, the High Commissioner, during her visit to Tehran in September 2007, raised the case of Mohammad Latif, who had been sentenced to death for a crime that he had committed under the age of 18. It was subsequently reported that a final settlement had been reached between the families of Mr. Latif and the victim.

E. Women's rights

46. The Islamic Republic of Iran has yet to ratify the Convention on the Elimination of All Forms of Discrimination against Women.

47. According to the United Nations Development Programme Human Development Report 2007/2008, the Islamic Republic of Iran ranks ninety-fourth on the gender development index among the 177 countries surveyed and eighty-seventh on the gender empowerment measures. Gender disparities remain among geographical regions in the country. For instance, according to the Management and Planning Organization of the Islamic Republic of Iran, the gender development index is markedly lower than the national average in certain provinces, such as Sistan Baluchistan, Hormogzan and Zanjang.

48. The Islamic Republic of Iran is reported to have made important achievements in women's education and health since 1990, the baseline year for the Millennium Development Goals. It is likely to achieve benchmarks under Goals 2 (achieve universal primary education), 4 (reduce child mortality) and 5 (improve maternal health). For instance, the female-to-male literacy ratio in the 15-to-24 age group has increased from 87.9 per cent to 98.6 per cent. The girls' primary, secondary and tertiary education enrolment ratio has markedly increased, from 79.2 per cent to 94.3 per cent, with female students constituting 64 per cent of all college students. Access to health care, including reproductive health care, has become nearly universal. As noted previously, maternal and infant mortality rates have also declined sharply.

49. Despite these positive achievements, the Islamic Republic of Iran is faced with a number of challenges in gender equity and equality and empowerment of women. The penal and civil laws contain discriminatory provisions that are in urgent need of

[7] The Permanent Mission of the Islamic Republic of Iran to the United Nations at Geneva contested whether Mr. Moloudzadeh had in fact been sentenced for crimes committed before the age of 18. However, a review of court documents by OHCHR found that the offences included those committed when he was a minor.

reform. On 30 November 2007, the Special Rapporteur on violence against women, its causes and consequences raised concerns over provisions in the family protection draft bill (No. 36780/68357, dated 22 July 2007), which allegedly reversed rights currently enjoyed by women in the family. The bill would, in particular, make it more difficult for women to obtain a divorce, as they would need to prove the impossibility of reconciliation by the intermediary of family counselling centres composed of experts on family studies, law and Islamic law (A/HRC/7/6/Add.1, paras. 214-226).

50. There have recently been some more promising steps to address discriminatory laws. Under Iranian law, provisions for compensation (*diyah*, or blood money) for accidents and deaths put a value on men's lives (and limbs) that is double that of women's. This was recently reviewed by Parliament, and legislation has been proposed to recognize the equal value of women in such cases. The law on inheritance for married women was also reviewed by Parliament. Under the law, when a husband dies, a wife is entitled to a "wife's share" that excludes real property, and the land is passed directly to the children and the parents of the husband. Furthermore, male children are entitled to double the amount of the inheritance of female children. Women parliamentarians have championed new legislation to address this inequality, although it has met resistance from many religious scholars. While both laws have yet to be passed, such legislative initiatives represent positive steps, particularly given the accompanying public debate and discourse on women's rights. The Iranian authorities also point to legislative changes that provide for the possibility of divorce at the request of a woman and the right of mothers to custody of their children.

51. Women have limited participation in wage labour outside of the agricultural sector, estimated at 16 per cent, which signifies that the progress achieved in female education in the recent past has not as yet translated into increased women's economic participation. Concern was noted by the ILO Committee of Experts over women's low labour market participation, and particularly their limited access to senior positions and their high unemployment rate. Furthermore, the Committee noted that without the express repeal of section 1117 of the Civil Code, there would be a continuing negative impact on women's employment opportunities. Women's representatives in Parliament constitute only 4.1 per cent, and women's participation in governance and decision-making positions remains limited. In addition, socio-cultural barriers and gender stereotypes in the school curricula and the media reinforce the prevailing patriarchal attitude in society

52. Gender-based violence is also widespread. During her visit from 29 January to 6 February 2005, the Special Rapporteur on violence against women, its causes and consequences observed that violence against women in the Islamic Republic of Iran was due mainly to gender inequality, perpetuated by patriarchal values and discriminatory laws and procedures against women (E/CN.4/2006/61/Add.3).

53. Concerns have been expressed over an increasing crackdown in the past year on the women's rights movement in the Islamic Republic of Iran. Women's rights activism is sometimes presented by the Iranian Government as being connected to external security threats to the country. For instance, the main organizers of the "one million signatures" campaign reportedly faced arrest and intimidation by the authorities. On 6 March 2007, the United Nations High Commissioner for Human Rights expressed public concern over the arrests of at least 31 women activists

during a peaceful gathering in front of the Islamic Revolutionary Court in Tehran. Several special procedures mandate-holders have raised concerns about the arrest, detention and ill treatment of women's rights defenders on numerous occasions in recent years (see, e.g., A/HRC/7/6/Add.1 and A/HRC/7/28/Add.1). The Special Rapporteur on violence against women, its causes and consequences also noted with concern repeated arrests of women for wearing overtly loose headscarves or tight coats.

F. Rights of minorities

54. The Constitution explicitly declares Islam to be the State religion, but contains two important provisions concerning religious minorities. Article 13 states that Zoroastrian, Jewish and Christian Iranians are the only recognized religious minorities who are free to perform their religious rites and ceremonies, within the limits of the law, and to act according to their own canon in matters of personal affairs and religious education. Article 14 also provides protection for non-Muslims, provided they refrain from conspiracy or activity against Islam and the Islamic Republic of Iran.

55. Reports continue to be received about members of the Baha'i community being subjected to arbitrary detention, false imprisonment, confiscation and destruction of property, denial of employment and Government benefits and denial of access to higher education. A significant increase has been reported in violence targeting Baha'is and their homes, shops, farms and cemeteries throughout the country. There have also been several cases involving torture or ill-treatment in custody.

56. The special procedures mandate holders have repeatedly raised the issue of the Baha'is with the Iranian authorities. Since June 2006, the Special Rapporteur on freedom of religion or belief, the Independent Expert on minority issues and the Working Group on Arbitrary Detention have repeatedly raised the issue of the arrest of 54 members of the Baha'i community in the city of Shiraz who were reported to have been involved in community work. Also on 24 April 2007, the Special Rapporteur on freedom of religion or belief expressed concern that Baha'i students were subjected to harassment, vilification and other forms of abuse by their teachers and school administrators. It is alleged that the Baha'i students were forced to identify their religion and then were insulted, threatened with expulsion and, in some cases, summarily dismissed from school. In January and February 2007 some 150 such incidents were reported. Many of the students were informed they had been expelled because of their faith. Moreover, in June 2006, the ILO Committee of Experts concluded that no progress had been made in amending or repealing legislation that was contrary to the ILO Discrimination (Employment and Occupation) Convention of 1958. The Committee also expressed continued concern regarding discrimination against members of recognized and unrecognized religious minorities and ethnic minorities. The Committee noted that discrimination against Baha'is remained particularly serious.

57. On 18 May 2008, it was reported that six members of the Baha'i leadership in the country had been arrested and a seventh member had been detained incommunicado in Mashhad since 5 March 2008. Subsequently, on 23 May, the High Commissioner wrote to the Iranian authorities asking for information on the

reports in the light of the obligations of the Islamic Republic of Iran under the International Covenant on Civil and Political Rights to ensure that no one is detained arbitrarily and to uphold the right to freedom of religion or belief. The Iranian authorities insist that the arrests were made on national security grounds.

58. Other minority groups in the Islamic Republic of Iran are reported to have been subjected to a range of human rights violations. For instance, the special procedures sent a number of communications in connection with the Arab minority in Khuzestan. On 3 February 2006, the Working Group on Arbitrary Detention and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression raised concern over the arrests of seven Arab minority people in the city of Ahwaz in Khuzestan Province on 11 and 12 January 2006 after clashes between Iranian security forces and members of the Arab minority community. On 31 August 2006, the Special Rapporteur on extrajudicial, summary or arbitrary executions drew attention to information he had received regarding a reportedly secret trial on charges carrying the death penalty of 22 Arab minority activists. On 13 November 2006, the Special Rapporteur wrote again to the Iranian authorities in connection with the death sentences of 10 of the 22 individuals expressing concern over reports that they had been tortured to confess and had had no access to lawyers prior to their trials. The Iranian authorities insist that the arrests were made in connection with terrorist activities.

59. In addition, the special procedures have raised a number of communications concerning members of the Nematollahi Sufi Muslim community, the Kurdish community, the Sunni community, the Baluchi community, the Azeri-Turk community and the Christian community who have reportedly been subjected to arbitrary arrests and torture, allegedly in connection with peaceful demonstrations for their rights, such as the right to speak their own language and to hold religious ceremonies.

60. Treaty bodies have also addressed the issue of the rights of minorities in the Islamic Republic of Iran. As such, the Human Rights Committee expressed its concern at the extent of the limitations and restrictions on the freedom of religion and belief, noting that conversion from Islam is punishable and that even followers of the three recognized religions are facing serious difficulties in the enjoyment of their rights. The Committee was particularly disturbed about the extent of discrimination against followers of non-recognized religions, notably the Baha'is, whose rights under the Covenant are subject to extremely severe restrictions (CCPR/C/79/Add.25, para. 16). In 2003, the Committee on the Elimination of Racial Discrimination expressed its concern over the reported discrimination faced by certain minorities, including Baha'is, who are deprived of certain rights, and that certain provisions of the State party's legislation appear to be discriminatory and on ethnic and religious grounds (CERD/C/63/CO/6, para. 14). In 2005, the Committee on the Rights of the Child expressed concern that a large number of Baha'i students had not been admitted to university on the grounds of their religious affiliation (CRC/C/15/Add.254, para. 59).

61. The Islamic Republic of Iran has been a long-standing and generous host to a substantial refugee population, particularly from neighbouring Afghanistan. Following the voluntary repatriation of approximately 1 million Afghan refugees from 2002 to 2004, the Bureau of Aliens and Foreign Immigrants Affairs under the Interior Ministry conducted two inclusive refugee registration exercises between

2005 and 2007. In 2008, the Bureau has conducted a third Afghan refugee registration exercise and is presently in the process of issuing the corresponding refugee card to more than 850,000 Afghan registered refugees. Commendably, it is foreseen that work permits will also be issued to refugees upon registration. However, the Committee on the Rights of the Child noted that refugee children are currently being enrolled in schools only if their parents have registered with the authorities, and that the enrolment of refugee children was not being offered free of charge (ibid.).

G. Freedom of peaceful assembly and association and freedom of opinion and expression

62. Serious concern has been expressed by the international community regarding the right to freedom of peaceful assembly and association and freedom of opinion and expression. The Human Rights Committee expressed concern over the extent of limitations to the freedom of expression, assembly and association exemplified by articles 6 and 24 of the Constitution and article 16 of the Law pertaining to Activities of Parties, Societies and Political and Professional Associations. It noted that contrary to the provisions of articles 18 and 19 of the International Covenant on Civil and Political Rights, members of certain political parties who did not agree with what the authorities believed to be Islamic thinking or who expressed opinions in opposition to official positions had been discriminated against. Self-censorship also seemed to be widespread in the media, and severe limitations appeared to have been placed upon the exercise of freedom of assembly and of association (CCPR/C/79/Add.25, para. 15).

63. Similar concerns have been reiterated by the special procedures mandate holders. During his visit from 4 to 10 November 2003, the Special Rapporteur on the right to freedom of opinion and expression (see E/CN.4/2004/62/Add.2) noted a strong desire for reform among civil society, within Parliament and at the highest levels of the Government of the time, but reforms were hampered by a number of institutional blocks. He noted that many limitations in the Press Law and the Penal Code did not comply with the restrictions possible under article 19, paragraph 3, of the International Covenant on Civil and Political Rights. He observed that the grounds for limitations such as "insult against Islam" or "criticism" lacked objective criteria and clear definition and could result in misinterpretation by judges. He also urged the Iranian authorities to review the legislation limiting the exercise of freedom of opinion and expression and to give a clearer definition to the provisions limiting this right.

64. Furthermore, the Special Rapporteur underlined that the use of revolutionary courts to try "opinion-related offences" had a negative impact on the exercise of the right to freedom of opinion and expression. He called upon the Iranian Government to grant amnesty to all prisoners prosecuted for press and opinion-related offences.

65. There have been increasing reports of tightening curbs on the media in the recent past. The crackdown has affected print media, weblogs and websites, and journalists have been imprisoned. A well-known human rights defender in the country said that in the period from March 2007 to March 2008, approximately 30 newspapers and magazines had been suspended in the country, including *Sharq* and *Hammihan* dailies as well as *Madrese*, *Zanan* and *Donyaye Tasvir*, *Sobh-e Zendegi*,

Talash and *Haft*. Some women's rights activists were indicted on national security grounds owing to their weblogs. It is further reported that during the month of May 2008 alone, more than 18 weblogs focusing on discriminatory laws against women (the "1 million signatures" campaign) had been filtered. The censorship of books has reportedly been tightened, affecting negatively the environment for the publishing industry and writers. The Iranian Government appears to encourage self-censorship openly, as the Islamic Culture and Guidance Minister was quoted in the media as saying that if book publishers were to do some self-censorship, they wouldn't have to complain so much.

66. The right of workers to form independent trade unions has been complicated by an apparent contradiction between the national laws and the Constitution. While the Constitution guarantees the right to association and assembly, section 6 of the Labour Law is vaguely worded in terms of workers forming free trade unions. It is reported that attempts to create a number of workers' associations and strike actions over wages have been met by arbitrary arrests and violence by the security forces.

H. Lack of due process rights and failure to respect the rights of detainees

67. As noted above, the Iranian Constitution, the Penal Code and the Code of Penal Procedure provide for a range of procedural guarantees in connection with the due process of law. Nevertheless, more than 65 per cent of the communications sent to the Islamic Republic of Iran by the special procedures mandate holders in 2007 related to concerns over the lack of due process rights and the failure to respect the rights of detainees.

68. Similarly, the Human Rights Committee expressed concern over the lack of safeguards for due process and fair trials and deplored the lack of respect for due process of law, particularly before the revolutionary courts, where trials in camera tended to be the rule and where apparently no real possibility was provided to the accused to prepare a defence (CCPR/C/79/Add.25, para. 12).

69. The Working Group on arbitrary detention, during its visit from 15 to 27 February 2003, noted the failure to observe procedural formalities as a guarantee against arbitrary treatment. Particularly in revolutionary court hearings, an extremely restrictive interpretation of article 128 of the Code of Penal Procedure and note 3 to the Law on the Selection of Counsel led to the exclusion of counsel at the discretion of the judges. The Working Group noted that the active involvement of counsel must be provided for during all stages of the process and that access to legal aid must be made more effective (E/CN.4/2004/3/Add.2 and Corr.1). The Iranian Bar Association has expressed concern over new legislation that establishes a parallel system for the issuance of attorney licences, which could further undermine the independence of the bar.

70. Women bear the negative impact of discriminatory laws and practices. The Special Rapporteur on violence against women, its causes and consequences noted that the rules of evidence discriminated against women. For example, in criminal offences such as murder or "illicit sexual relations", the woman's testimony is worth only half that of a man and must be corroborated by the testimony of a man in order to be accepted. Furthermore, she noted that the punishments imposed were disproportionate to the seriousness of the offences committed and that such arbitrary

punishments frequently discriminated against women, who were punished more harshly than men who committed the same crime (E/CN.4/2006/61/Add.3).

IV. Cooperation with the Office of the United Nations High Commissioner for Human Rights and international human rights mechanisms

A. Cooperation with the United Nations human rights treaty system

71. The Islamic Republic of Iran is a party to four major United Nations human rights treaties: the Convention on the Rights of the Child (ratified on 13 July 1994), the Convention on the Elimination of Racial Discrimination (ratified on 29 August 1968), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both ratified on 24 June 1975). It has ratified some other human rights-related treaties, including the Convention Relating to the Status of Refugees (1951) and the Protocol thereto (both ratified on 28 July 1976), the Convention on the Prevention and Punishment of the Crime of Genocide (1948) (ratified on 14 August 1956), the International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) (ratified on 17 April 1985), and the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) (ratified in May 2002; the Islamic Republic of Iran has ratified 13 international labour conventions).

72. The Islamic Republic of Iran has had a poor record of cooperation with treaty bodies. It has not reported to the Committee on Economic, Social and Cultural Rights or the Human Rights Committee for more than a decade. The concluding observations of each of those bodies adopted in 1993 remain largely unimplemented. However, on the positive side, the more recent country reports were examined by the Committee on the Rights of the Child in 2000 and 2005 respectively and by the Committee on the Elimination of All Forms of Racial Discrimination in 2003, enabling an in-depth analysis of the various forms of discrimination and of the situation of the rights of the child.

73. The Islamic Republic of Iran has a practice of entering general reservations upon signature or ratification, which has repeatedly been cited by treaty bodies as one of the main factors impeding the enjoyment of some human rights protected under the conventions.

B. Cooperation with the special procedures

74. The Islamic Republic of Iran issued a standing invitation to all thematic special procedures mandate holders in June 2002, which coincided with the discontinuation of the mandate of the Special Representative on the human rights situation in the Islamic Republic of Iran established by the Commission on Human Rights in 1984. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context (July 2005; see E/CN.4/2006/41/Add.2), the Special Rapporteur on violence against women, its causes and consequences (January/February 2005; see E/CN.4/2006/61/Add.3), the Special Rapporteur on the human rights of migrants

(February 2004; see E/CN.4/2005/85/Add.2), the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (November 2003; see E/CN.4/2004/62/Add.2), and the Working Group on Arbitrary Detention (February 2003; see E/CN.4/2004/3/Add.2 and Corr.1) have so far visited the Islamic Republic of Iran. Visits of the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial summary or arbitrary executions and the Special Rapporteur on freedom of religion or belief were agreed to in principle, but have yet to take place. The Special Rapporteur on extrajudicial summary and arbitrary executions sent a follow-up request in November 2006 and several additional follow-up requests in March 2008. The Special Rapporteur on freedom of religion or belief reiterated her wish to visit the Islamic Republic of Iran in her latest follow-up letter, dated March 2008. The Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment requested a visit in 2005 and has sent annual reminders since. The Special Rapporteur on the independence of judges and lawyers requested a visit in 2006 and reiterated his request in 2008. The independent expert on minority issues requested a visit in 2008.

75. The special procedures mandate holders have also sent a large number of individual communications on a wide range of human rights issues vis-à-vis the Islamic Republic of Iran.[8] A total of 56 communications were sent in 2007, 42 of which were joint communications. The Iranian authorities responded in 10 cases.

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

76. The United Nations High Commissioner for Human Rights visited the Islamic Republic of Iran in September 2007 for a conference on human rights and cultural diversity of the Non-Aligned Movement. During her visit, she met with senior Government representatives and discussed a range of concerns, including the death penalty (especially for juveniles) and women's rights. In the course of those discussions, the Iranian authorities expressed interest in cooperation between OHCHR and the Iranian judiciary. Subsequently, in May 2008, at the invitation of the judiciary, an OHCHR technical assessment mission visited Tehran to explore possible areas of cooperation. As an initial step, OHCHR suggested to the authorities that the Islamic Republic of Iran accept a visit by the Special Rapporteur on the independence of judges and lawyers before the end of 2009.

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[8] In 2007 alone, the Special Rapporteur on extrajudicial, summary or arbitrary executions sent 20 communications to the Islamic Republic of Iran. The Working Group on Arbitrary Detention processed 17 communications; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent 20 communications; the Special Rapporteur on the independence of judges and lawyers sent 7 communications; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment sent 24 communications; the Special Rapporteur on the human rights of migrants sent 1 communication; the Special Representative of the Secretary-General on the situation of human rights defenders sent 23 communications; the Special Rapporteur on violence against women, its causes and consequences sent 10 communications; the Special Rapporteur on freedom of religion or belief sent 3 communications; and the Special Rapporteur on the right to education sent 1 communication.

77. The High Commissioner has intervened with the Iranian authorities in a number of individual human rights cases through private representations, letters and public statements. These included cases involving the rights of women, freedom of assembly, juvenile executions, cruel, inhuman or degrading treatment or punishment, including stoning, and freedom of religion and the rights of minorities.

VI. Conclusions

78. **Many areas of continuing concern for human rights in the Islamic Republic of Iran are noted in the present report, as well as some positive steps taken by the Iranian authorities to address discriminatory laws and restrict aspects of the death penalty. The Secretary-General encourages the Government of the Islamic Republic of Iran to address the concerns highlighted in the report and to continue to revise national laws, particularly the new Penal Code and juvenile justice laws, to ensure compliance with international human rights standards and prevent discriminatory practices against women, ethnic and religious minorities and other minority groups. The Secretary-General notes the positive achievements of the Islamic Republic of Iran against many economic and social indicators and encourages the Government to continue to address regional disparities in the enjoyment of economic, social and cultural rights, as well as discrimination against women and minorities.**

79. **The Secretary-General welcomes the recent steps taken by the Government of the Islamic Republic of Iran to explore cooperation on human rights and justice reform with the United Nations, including OHCHR. He encourages the Government to ratify major international human rights treaties, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and to withdraw the general reservations it has made upon the signature and ratification of various human rights treaties, as recommended by the respective treaty bodies. The Secretary-General hopes that the Islamic Republic of Iran will finalize its long-outstanding periodic reports under human rights treaties, particularly to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, to allow a systematic review of progress in implementing the related obligations. The Secretary-General welcomes the Government's standing invitation to the Human Rights Council special procedures mandate holders and encourages the Government to facilitate their visits to the country in order that they might conduct more comprehensive assessments.**

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Letter dated 1 October 2008 from the Permanent Representative of Albania to the United Nations addressed to the President of the General Assembly

I have the honour to forward herewith a statement of the delegation of the Republic of Albania in its exercise of the right of reply to the letter submitted by the Permanent Representative of Serbia and distributed by your office as document A/63/377 (see annex).

I will be grateful if you would arrange for the present letter and its annex to be circulated as a document of the General Assembly, under agenda item 8.

(*Signed*) Adrian **Neritani**
Ambassador
Permanent Representative

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Annex to the letter dated 1 October 2008 from the Permanent Representative of Albania to the United Nations addressed to the President of the General Assembly

The irreversible reality of an independent Kosovo has been met with a growing welcome from all corners around the world. Thanks to the maturity of the people and Government of Kosovo and the international presence there, the Serbian-inspired and anticipated worst case and apocalyptic scenarios failed to happen. According to the Secretary-General's latest reports, the situation in Kosovo continues to remain calm. As the President of the Republic of Albania mentioned in his speech, the United Nations has, in fact, been an important part of the successful efforts of the international community in Kosovo and we are grateful for that. This is a legacy that the United Nations Member States, even Serbia, are obliged to respect.

Building peace, stability and democracy continues to be a very difficult task for some left alone in dark corners in the Balkans. We share belief with others, in which we cordially urge Serbia to join, that this century can be built upon different values, that will not involve the death of innocent en masse victims in four consecutive bloody wars, ethnic cleansing and genocide against hundreds of thousands of people. Only nine years ago, Serb military and police operations forced over 1 million Kosovar Albanians into a biblical exodus; thousands were killed and thousands of others disappeared in mass graves, including some inside Serbia proper. This was clearly State-run ethnic cleansing, and only the intervention of the international community saved an entire population from disappearance.

Albania has always played a constructive and moderating role in the region, and this has been continuously appreciated by the international community.

Standing up to the responsibilities of modern times requires a new approach. The hypocrisy of self-victimization is disingenuous and dangerous. The self-sustained and engineered fear of the so-called precedent continues to show the same mark of hatred and aggressive revenge. As long as perpetrators and war criminals are captured and their protectors abide by and do not trivialize the outstanding obligations of international law, the future of the Balkans will have already entered its new and stable phase.